

August 13, 2004

The Honorable Michael K. Powell
Chairman

The Honorable Kathleen Q. Abernathy
Commissioner

The Honorable Kevin J. Martin
Commissioner

The Honorable Jonathan S. Adelstein
Commissioner

The Honorable Michael J. Copps
Commissioner

Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RE: MB Docket No. 04-207

Dear Chairman Powell and Commissioners Martin, Copps, Abernathy, and Adlestein:

We are writing to urge that you promote the cause of diversity in programming in the cable industry, and, in particular, that you oppose the misguided "pay-per-channel" proposed government regulations (sometimes known as *a la carte*) which represent a wrecking ball for media diversity. Indeed, had the "pay-per-channel" government regulations been law, most programming targeted to African-American, Hispanic, and Asian audiences – not to mention programming specifically targeted at other demographic groups – would never have seen the light of day.

Diversity in cable television is working precisely because of the industry's economic model. Under this model, programmers rely on a dual stream of revenue from advertisers and cable operators who pay license fees. This existing system – in which there are basic, expanded basic, and other premium tiers of bundled channels – provides new programming an essential platform that serves as a critical stepping stone to success. Once on the tier, millions of viewers are exposed to new programs while channel surfing, and advertisers provide the new programmers higher revenues because of the larger potential audience. And, as new programs become more successful on the platform, operators pay higher license fees to the emerging networks.

A government regulation that would mandate this platform out of existence would, in effect, make it impossible for new, niche programming to ever survive. The mere cost of promoting new programming to the general public – a cost directly imposed on new programmers and ultimately consumers – would be prohibitive. Such a policy is akin to asking a newborn infant to swim in the deep end of a pool.

The evidence is quite strong that pay-per-channel regulation is bad public policy. Congress' non-partisan investigative arm – the U.S. General Accounting Office – reported in an October 2003 report that in an *a la carte* or pay-per-channel world “some cable networks, especially small and independent networks would not be able to gain enough subscribers to support the network.” (emphasis added.) The GAO also found that, in many circumstances, a pay-per-channel government regulation would actually *increase* the overall cost for cable programming.

Some of the leading African-American, Hispanic, Asian, and women's programmers have been particularly persuasive on this point. TVOne's CEO, Alfred Liggins, recently wrote in a *Washington Times* op-ed, that a pay-per-channel regulation would have a “chilling effect on programming diversity in America,” potentially putting “us and many other innovative cable networks out of business.” SíTV's Jeff Valdez calls pay-per-channel “a classic case of a solution far worse than the perceived problem.” And Mike Hong, CEO of ImaginAsian TV, which is set to launch next month, describes cable pay-per-channel as “extremely damaging to the economic viability of services like ours.” Finally, a group of women programming executives from networks ranging from Lifetime to the Sci-Fi Channel warned that “[g]overnment efforts to dictate how our programming is packaged or marketed would be bad for consumers because it would give them less choice and less diversity in programming,” adding that “consumers . . . may need to pay the same \$40 for a fraction of the channels they currently receiv[e].”

Indeed, we agree with the members of the Congressional Black Caucus who, after examining pay-per-channel proposals, told the House Commerce Committee that, in a pay-per-channel world, the channels “that offer diversity to the viewing public would be in great jeopardy. The reason is one of simple economics.” The break down in the advertising revenue caused by having to pay on a per channel basis, they argued, can only mean higher license fees, an increase in cable rates, and fewer choices for consumers.

The pay-per-channel, or *a la carte*, proposal is being pushed by the oddest of bedfellows. One leading organization has made no secret of its desire to regulate content in a way the 1st Amendment would not tolerate. Another organization's spokesman said it was his desire to “blow apart” the industry model – the kind of enmity that should not serve as the basis for government policy, and which, if adopted would leave many minority communities out in the cold.

Continued diversity on television is needed both for our communities and the country as a whole. We all grow and learn from seeing new cultures and styles on our television screens. Minorities are finally seeing programs directed to their needs or interests, including those who primarily speak a language other than English. Diverse programming also increases the opportunities for minorities on television and behind the cameras.

Last year, the media concentration debate sparked heated controversy in and out of the FCC. We would hope that the pay-per-channel proposal is so obviously contrary

to the public interest and the cause for diversity that there would be unanimous opposition to it inside the FCC.

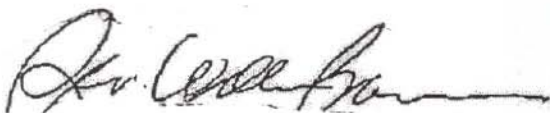
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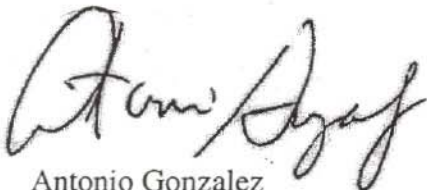
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Director, NAACP



Marc Morial
President and CEO, National Urban League



Reverend Willie T. Barrow
Chairperson Emeritus, Rainbow PUSH Coalition



Antonio Gonzalez
President, Southwest Voter Registration Education Project

/s/ Brent Wilkes
Executive Director, League of United Latin American Citizens

/s/ Reverend James L. Demus III
Executive Director – Chicago South Side NAACP
Pastor, Park Manor Christian Church, Chicago, IL
Co-Director, Ministerial Alliance Against the Digital Divide

/s/ Reverend Dr. William H. Samuels
CEO, Protestants for the Common Good
Pastor, Commonwealth Community Church, Chicago, IL
Co-Director, Ministerial Alliance Against the Digital Divide

/s/ Reverend Dr. Walter B. Johnson, Jr.
Pastor, Wayman AME Church, Chicago, IL
Co-Director, Ministerial Alliance Against the Digital Divide

/s/ Reverend Toni Akers
President and Founder, TEA, Incorporated

/s/ Reverend Dr. Michael L. Pflieger
Pastor, St. Sabina Catholic Church, Chicago, IL

/s/ Reverend Dr. David C. Coleman, Jr.
Presiding Elder, South District AME Churches

/s/ Reverend Barbara A. Ross
/s/ Pastor, Philip R. Cousin AME Church, Calumet City, IL

/s/ Reverend Gerry J. Moore
Pastor, Arnett Chapel AME Church, Chicago, IL

/s/ Reverend Oscar Crear
Pastor, Woodlawn AME Church, Chicago, IL

/s/ Reverend Norris E. Jackson
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/s/ Reverend Dr. James F. Miller
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/s/ Reverend Joseph Baring
Pastor, Allen Chapel, Milwaukee, WI

/s/ Reverend William Townsend
Pastor, Carey Tercentenary AME Church, Chicago, IL

/s/ Reverend Mickarl D. Thomas, Sr.
Pastor, Grant Memorial AME Church, Chicago, IL
President AME Ministerial Alliance of Chicago and Vicinity

/s/ Reverend Byron Moore
Pastor, St. James AME Church, St. Paul, MN

/s/ Reverend Reginald Blount
Pastor, Trinity AME Church, Waukegan, IL

/s/ Reverend Albert D. Tyson III
Pastor, St. Stephen AME Church, Chicago, IL

/s/ Reverend Cecelia Green Barr
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/s/ Reverend Lewis E. Grady
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/s/ Reverend Carolyn L. Vessel
Pastor, Way of Life AME Church, Chicago, IL

/s/ Reverend Juanita Williams
Associate Minister, Way of Life AME Church, Chicago, IL

/s/ Reverend Frederick Gaddy
Pastor, Trinity AME Church, Alton, IL

/s/ Reverend Clarence G. Robinson
Presiding Elder, North District AME Churches

/s/ Reverend Theodore E. Moran, Jr.
Pastor, St. Mary AME Church, Chicago, IL